IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 109/2006
(Shri Razak Khan V/s State of Rajasthan)

Date of Order : 17/07/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. C.P.Soni, for the petitioner.
Mr. Ashok Upadhyay, P.P.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 09.11.2005 passed by Additional Sessions Judge No.2, Jodhpur (for short 'the revisional court' hereinafter) whereby the revision petition filed by the petitioner against the order dated 11.8.2005 passed by Chief Judicial Magistrate, Jodhpur (for short 'the trial court' hereinafter) in Criminal Original Case No. 89/03, was dismissed.

I have heard learned counsel for the petitioner and public prosecutor for the State. Perused the orders impugned

passed by the courts below.

The allegation against the petitioner is that he was holding two ration cards and as such committed the offence punishable under Section 3/7 of the Essential Commodities Act (for short 'the Act' hereianfter).

Learned counsel for the petitioner submits that there being no sufficient material on record to presume that the petitioner committed the said offence.

I have carefully gone through the charge framed by the trial court which states that the petitioner got prepared a Ration card by misrepresentation.

Learned counsel for the petitioner submits that the only allegation against the petitioner is that the address given was not correct for which the petitioner has moved to the authorities concerned to change the address, except that there is no other allegation.

I have carefully gone through the material available on record. The petitioner has already moved before the authority concerned to change the address on the Ration Card. It is not the case that the petitioner has forged the ration card and there was more than one ration card. There is absolutely no evidence that he has been using such ration card against the provisions of law. In the circumstances, therefore, in my view, both the courts below fell in error to presume that the petitioner

committed the offence. There being no other material to presume that the petitioner committed the offence under Section 3/7 of the Act. Thus, to allow the proceedings and the orders impugned is nothing but will amount to abuse of the process of the Court and would result in serious miscarriage of justice.

Consequently, the criminal misc. petition is allowed. The order impugned dated 9.11.2005 passed by revisional court and the order dated 11.8.2005 passed by the trial court are set aside. The proceedings against the petitioner stand quashed and the petitioner is discharged of the offence under Section 3/7 of the Act. Stay petition also stands disposed of.

(H.R.PANWAR),J.

rp